



Paper No. 9

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In re Application of
Michelson
Application No. 09/497,590
Filed: June 6, 2000
Attorney Docket No. 101.0044-03000

OFFICE OF PETITIONS
DECISION GRANTING
PETITION

This is a decision on the petition under 37 CFR 1.182, filed on June 6, 2000, requesting that the above-identified application be accorded "a later filing date."

The application was originally filed on February 3, 2000. However, on April 18, 2000, the Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional application ("Notice") advising applicant that the February 3, 2000 filing date had been accorded the application, but that pages 45, 58 and 68 of the specification appeared to have been omitted.

In response, on June 6, 2000, the present petition was filed accompanied by a complete copy of the specification including pages 45, 58 and 68 and a copy of a signed declaration.

Since a petition under 37 CFR 1.182 and a copy of the omitted items, i.e., pages 45, 58 and 68, have been filed in response to the Notice, the petition is understood as requesting that the application be accorded a filing date of June 6, 2000, the date the omitted items were filed (See option II in Notice).

The petition is **GRANTED**.

A newly executed oath or declaration is not required under 37 CFR 1.51(b)(2) and 1.53(f) in a continuation or divisional application, provided that the specification and drawings filed in the continuation or divisional application contain no matter that would have been new matter in the prior application. See 37 CFR 1.63(d)(1). For initial processing purposes, it is presumed that the specification filed June 6, 2000, contains no matter that would have been new matter in the prior application. Thus, the application will be processed using the copy of the declaration supplied on June 6, 2000. No surcharge is required, since the declaration was present on the June 6, 2000 filing date accorded the application.

The continuity data for this application has been corrected as requested in the request for a corrected filing receipt filed June 6, 2000.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of June 6, 2000, using the drawings supplied on February 3, 2000 and the specification and signed declaration filed on June 6, 2000.

Telephone inquiries concerning this matter may be directed to Petitions Attorney RC Tang at (703) 308-0763.

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